

New financial technology means Spanish regulators will adopt 'sandbox' approach

Regulators acknowledging that they need to develop a new strategy in order to facilitate the development of the fintech industry



Javier Menchén

It is anticipated that Spanish regulators will soon adopt a regulatory 'sandbox' approach, in order to keep up with the growth of financial technology, says Javier Menchén, partner at Ramón y Cajal Abogados in Madrid. Such a scenario would involve regulators testing regulations on a small number of financial institutions to see if they are workable.

"We are currently working with a lot of Spanish and international banks in order to help them legally adapt their banking procedures to new fintech scenarios," says Menchén. "However, as lawyers, we can see that regulation is falling behind reality as things move so fast – sometimes, we have to say to a technical team that we will have to talk to regulators about some of the developments they are proposing, as while it may look reasonable, there is no case law, no precedent."

Already an established approach in other countries, a regulatory sandbox

is a safe way for banks or financial institutions to build and test in a live environment how new products, services and delivery mechanisms, not yet included in the law, work in the market, according to Menchén. "Regulators are acknowledging that in order to let the fintech economy progress, we cannot view regulation like we did in the past, or else we would be having to change EU and local laws every day, which in itself is a slow process," he explains. "A sandbox scenario enables banks to find out from a relatively small number of users if a new procedure works technically and from a compliance perspective – it's an innovative way to do things."

Menchén says that if Spanish regulators do decide to adopt the sandbox approach in the future, it will be an atypical process. "We won't be sitting at our desks doing a report on the law, we will be collaborating with companies and even the regulators to see how this sandbox scenario will work."

Novo Banco sale completes stabilisation of Portuguese banking sector



Paula Gomes Freire

The recent sale of Novo Banco to US private equity fund Lone Star marked a watershed moment for Portugal's banking industry. It followed a difficult period after the financial crisis, which included the 2014 collapse of Banco Espírito Santo, from which Novo Banco would ultimately emerge as the 'good bank'. A year later Banco Banif also collapsed, which resulted in its 'good assets' being taken over by the Spanish banking giant, Banco Santander. Earlier this year, another major Portuguese bank, BPI, was taken over by Spain's Caixa Bank. Novo Banco was effectively the last major banking sector asset to be sold.

"With the sale of Novo Banco, the government is very excited, because it's now possible to say that the banking sector has stabilised and all the major files are now closed," says Paula Gomes Freire, partner at VdA Vieira de Almeida, which advised the Bank of Portugal on the Novo Banco deal. "It's been a very interesting

period to be a banking lawyer in Portugal – clearly the banks are moving from having a big balance sheet to really focusing on their core business."

What happens next for Portugal's banking lawyers? There is still the problem of Portugal's non-performing loans and this should generate plenty more work. Nevertheless, lawyers must still readjust to a new banking landscape in which most of the domestic banks are foreign-owned. In addition, the marketplace is also being impacted by the growing fintech industry, which brings both challenges and opportunities.

"New technology and how it affects the banking business will raise questions as to what type of legal advice will be required from lawyers," says Gomes Freire. "We have worked together with people who specialise in banking and IT to monitor what is happening, so we are well positioned to advise on these totally new areas."